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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/673,885   | 09/30/2003  | Ellen M. Beasley     | CL001219DIV         | 2626             |
| 25748  | 7590        | 07/12/2005           | EXAMINER            |                  |
| CELERA GENOMICS<br>ATTN: WAYNE MONTGOMERY, VICE PRES, INTEL PROPERTY<br>45 WEST GUDE DRIVE<br>C2-4#20<br>ROCKVILLE, MD 20850 |             |                      | PROUTY, REBECCA E   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1652                |                  |

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/673,885

Applicant(s)

BEASLEY ET AL.

Examiner

Rebecca E. Prouty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

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Claims 1-6 are at issue and are present for examination.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (US-PGPUBS 2004/0081983) or Lee et al. (WO 02/090530).

Lee et al. (US-PGPUBS 2004/0081983) and Lee et al. (WO 02/090530) each teach a protein (i.e., KPP-2, SEQ ID NO:2 of Lee et al.) having 99% identity to SEQ ID NO:2 herein and compositions comprising this protein and a carrier. As KPP-2 of Lee et al. was first disclosed in 60/271,205 filed on 2/23/01 Lee et al. anticipate the instant claims.

Claims 1-4 are allowed. The closest prior art appear to be the KPP-2 protein of Lee et al. (US-PGPUBS 2004/0081983) and Lee et al. (WO 02/090530) as discussed above, the rPTP-GMC1 protein of Wright et al. which appears to be the rat homolog of the instant protein and that of Moller et al (US Patent 5,585,233)

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which appear to disclose cytoplasmic forms, C-terminal fragments of the membrane tyrosine phosphatase of SEQ ID NO:2 or allelic and splice variants thereof. However, none of these references, nor the prior art in general, teach or suggest the specific tyrosine phosphatase of SEQ ID NO:2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rebecca Prouty  
Primary Examiner  
Art Unit 1652